
SENATE BILL No. 477

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47; IC 35-50-2-13.

Synopsis: Assault weapons. Makes the manufacture, sale, transfer, or possession of an assault weapon by an unauthorized person a Class C felony. Makes the operation of a loaded assault weapon by an unauthorized person a Class B felony. Allows a court to sentence a person to an additional fixed term of imprisonment of not more than 20 years if the state can prove beyond a reasonable doubt that the person possessed an assault weapon while committing an offense concerning dealing in a controlled substance.

Effective: July 1, 2005.

Simpson

January 18, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 477

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-47-2-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except an
3 individual acting within a parent-minor child or guardian-minor
4 protected person relationship or any other individual who is also acting
5 in compliance with IC 35-47-10, a person may not sell, give, or in any
6 other manner transfer the ownership or possession of a handgun or
7 assault weapon (as defined in ~~IC 35-50-2-11~~) **IC 35-47-5.5-2**) to any
8 person under eighteen (18) years of age.
9 (b) It is unlawful for a person to sell, give, or in any manner transfer
10 the ownership or possession of a handgun to another person who the
11 person has reasonable cause to believe:
12 (1) has been:
13 (A) convicted of a felony; or
14 (B) adjudicated a delinquent child for an act that would be a
15 felony if committed by an adult, if the person seeking to obtain
16 ownership or possession of the handgun is less than
17 twenty-three (23) years of age;



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- (2) is a drug abuser;
- (3) is an alcohol abuser; or
- (4) is mentally incompetent.

SECTION 2. IC 35-47-5.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 5.5. Assault Weapons

Sec. 1. This chapter does not apply to the following:

(1) A member of the:

- (A) armed forces of the United States;**
- (B) Indiana Army National Guard; or**
- (C) Indiana Air National Guard;**

while the member is on duty or drilling.

(2) An assault weapon that is:

- (A) kept for display as a relic; and**
- (B) rendered inoperable.**

(3) A federal, state, or local law enforcement officer acting within the scope of the law enforcement officer's duties.

(4) A person allowed by a federal or state law to engage in the business of manufacturing, assembling, conducting research on, or testing assault weapons while acting within the scope of the person's business.

(5) A person who otherwise may possess an assault weapon under federal law.

Sec. 2. (a) As used in this chapter, "assault weapon" means the following:

(1) A semiautomatic or pump-action rifle that has the capacity to accept a detachable magazine and has at least one (1) of the following:

- (A) A pistol grip.**
- (B) A second handgrip or a protruding grip that can be held by the non-trigger hand.**
- (C) A folding, telescoping, or thumbhole stock.**
- (D) A shroud:**
 - (i) attached to the barrel; or**
 - (ii) that partially or completely encircles the barrel; excluding a slide that encloses the barrel, that allows the bearer to hold the firearm with the non-trigger hand without being burned.**
- (E) A muzzle brake or muzzle compensator.**

(2) A semiautomatic pistol or semiautomatic, centerfire rifle with a fixed magazine that has the capacity to accept more

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than ten (10) rounds of ammunition.

(3) A semiautomatic pistol that has the capacity to accept a detachable magazine and has at least one (1) of the following:

(A) A second handgrip or a protruding grip that can be held by the non-trigger hand.

(B) A folding, telescoping, or thumbhole stock.

(C) A shroud:

(i) attached to the barrel; or

(ii) that partially or completely encircles the barrel; excluding a slide that encloses the barrel, that allows the bearer to hold the firearm with the non-trigger hand without being burned.

(D) A muzzle brake or muzzle compensator.

(E) The capacity to accept a detachable magazine at any location outside the pistol grip.

(4) A semiautomatic shotgun that has at least one (1) of the following:

(A) A pistol grip or vertical handgrip.

(B) A folding, telescoping, or thumbhole stock.

(C) A fixed magazine capacity of more than five (5) rounds.

(D) An ability to accept a detachable magazine.

(5) A shotgun with a revolving cylinder.

(6) A conversion kit, part, or combination of parts from which an assault weapon can be assembled if the parts are possessed by or controlled by the same person.

(b) The term does not include an assault weapon that has been modified to make it permanently:

(1) inoperable; or

(2) a device no longer defined as an assault weapon.

Sec. 3. As used in this chapter, "detachable magazine" means an ammunition feeding device that:

(1) delivers one (1) or more ammunition cartridges into a firing chamber; and

(2) can be removed from the firearm without the use of a tool.

Sec. 4. As used in this chapter, "muzzle brake" means a device attached to the muzzle of a firearm that uses escaping gas to reduce recoil.

Sec. 5. As used in this chapter, "muzzle compensator" means a device attached to the muzzle of a firearm that uses escaping gas to control muzzle movement.

Sec. 6. A person who knowingly or intentionally:

(1) manufactures;

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1 (2) sells;
 2 (3) offers or displays for sale;
 3 (4) gives;
 4 (5) transfers ownership of;
 5 (6) acquires; or
 6 (7) possesses;
 7 **an assault weapon commits a Class C felony.**

8 **Sec. 7. A person who knowingly or intentionally operates a**
 9 **loaded assault weapon commits a Class B felony.**

10 SECTION 3. IC 35-50-2-13 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) The state may
 12 seek, on a page separate from the rest of a charging instrument, to have
 13 a person who allegedly committed an offense of dealing in a controlled
 14 substance under IC 35-48-4-1 through IC 35-48-4-4 sentenced to an
 15 additional fixed term of imprisonment if the state can show beyond a
 16 reasonable doubt that the person knowingly or intentionally:

17 (1) used a firearm; or

18 (2) possessed: ~~or~~

19 (A) a handgun in violation of IC 35-47-2-1;

20 (B) a sawed-off shotgun in violation of IC 35-47-5-4.1; ~~or~~

21 (C) a machine gun in violation of IC 35-47-5-8; **or**

22 **(D) an assault weapon in violation of IC 35-47-5.5-6;**

23 while committing the offense.

24 (b) If after a sentencing hearing a court finds that a person
 25 committed an offense as described in subsection (a), the court may
 26 sentence the person to an additional fixed term of imprisonment of not
 27 more than five (5) years, except as follows:

28 (1) If the firearm is a sawed-off shotgun, the court may sentence
 29 the person to an additional fixed term of imprisonment of not
 30 more than ten (10) years.

31 (2) If the firearm is:

32 **(A) a machine gun or is an assault weapon; or**

33 **(B) equipped with a firearm silencer or firearm muffler;**

34 the court may sentence the person to an additional fixed term of
 35 imprisonment of not more than twenty (20) years. The additional
 36 sentence under this subdivision is in addition to any additional
 37 sentence imposed under section 11 of this chapter for use of a
 38 firearm in the commission of an offense.

39 SECTION 4. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding**
 40 **IC 35-47-5.5-6, as added by this act, a person who possesses an**
 41 **assault weapon does not violate IC 35-47-5.5-6, as added by this**
 42 **act, if the person does either of the following before October 1,**

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- 1 **2005:**
2 **(1) Removes the assault weapon from Indiana.**
3 **(2) Modifies the assault weapon to make it permanently:**
4 **(A) inoperable; or**
5 **(B) a device no longer defined as an assault weapon under**
6 **IC 35-47-5.5-2, as added by this act.**
7 **(b) This SECTION expires October 2, 2005.**
8 SECTION 5. [EFFECTIVE JULY 1, 2005] This act applies only to
9 **offenses committed after June 30, 2005.**

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